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REQUEST FOR CONTINUED EXAMINATION (RCE) TRANSMITTAL

Address to:
Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450



| | |
|------------------------|--------------------|
| Application Number | 09/967,237 |
| Filing Date | September 27, 2001 |
| First Named Inventor | Jan Zavada |
| Art Unit | 1642 |
| Examiner Name | David J. Blanchard |
| Attorney Docket Number | D-0021.5B-2 |

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.

Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. Submission required under 37 CFR 1.114

Note: If the RCE is proper, any previously filed unentered and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

- a. ☒ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.
- i. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____
- ii. ☐ Other _____
- b. ☒ Enclosed
- i. ☒ Amendment/Reply
- ii. ☐ Affidavit(s)/Declaration(s)
- iii. ☐ Information Disclosure Statement (IDS)
- iv. ☐ Other _____

2. Miscellaneous

- a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)
- b. ☐ Other _____

3. Fees The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.

- a. ☒ The Director is hereby authorized to charge the following fees, or credit any overpayments, to Deposit Account No. 12-0615. I have enclosed a duplicate copy of this sheet.
- i. ☐ RCE fee required under 37 CFR 1.17(e)
- ii. ☐ Extension of time fee (37 CFR 1.136 and 1.17) 06/16/2005 SSITHIB1 00000012 09967237
- iii. ☐ Other 01 FC:1401 790.00 OP
- b. ☐ Check in the amount of \$ _____ enclosed
- c. ☒ Payment by credit card (Form PTO-2038 enclosed)

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

| | | | |
|---------------------|------------------|------------------|---------------|
| Signature | | Date | June 13, 2005 |
| Name (Print / Type) | Leonia L. Lauder | Registration No. | 30,863 |

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

| | | | |
|---------------------|---------------|------|---------------|
| Signature | | Date | June 13, 2005 |
| Name (Print / Type) | Denise Ortega | | |

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing the burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



Certificate of Mailing [37 CFR 1.8(a)]

I hereby certify that this paper and the documents referred to as attached therein are being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail addressed to the: MAIL STOP RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Denise Ortega
Name

June 13, 2005
Date

Denise Ortega
Signature

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Jan Zavada et al.

Serial No.: 09/967,237

Group Art Unit: 1642

Filed : September 27, 2001

Examiner: David J. Blanchard

For : MN Gene and Protein

AMENDMENT AND REQUEST FOR
CONTINUED EXAMINATION (RCE)

Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Amendment concerning the above-identified application is in response to the Final Office Action mailed from the U.S. Patent and Trademark Office (PTO) on February 11, 2005 and to the Advisory Action mailed from the PTO on April 27, 2005. As the instant Amendment and Request for Continued Examination (RCE) is being filed within the fourth month of the date that the Final office Action was mailed from the PTO, that

is, from February 11, 2005 (since June 11 fell on a Saturday), Applicants have enclosed authorization to charge the fee for a one-month extension of time pursuant to 37 CFR § 1.136(a)(1).

Applicants respectfully request that the amendments in the instant response, many of which were previously submitted in their Amendment after Final submitted to the PTO on April 11, 2005 but not entered, now be entered in accordance with 37 CFR § 1.114 and with the Manual of Patent Examining Procedure (MPEP) § 706.07(h).

The instant application was filed on September 27, 2001. Therefore, as the instant application is an application for a utility patent that was filed under 35 U.S.C. 111(a) after June 8, 1995, and as the last Office action was a Final Office Action closing the prosecution in the application, Applicants respectfully point out that they are entitled under 37 CFR §§ 1.114 (a) and (d) to have a first submission entered and considered on the merits after final rejection:

- (a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:
 - (1) Payment of the issue fee, unless a petition under § 1.313 is granted;
 - (2) Abandonment of the application; or

- (3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

. . .

- (d) If an applicant timely files a submission and fee set forth in § 1.17(e), the Office will withdraw the finality of any Office action and the submission will be entered and considered.

Applicants have enclosed herewith a submission and an authorization to charge the fee of \$790 as set forth in 37 CFR § 1.17(e), and note that the finality of the Office Action, mailed from the PTO on February 11, 2005 (hereinafter cited as "Office Action" or "Final Office Action") is thereby automatically withdrawn. Should any fees, in addition to the one-month extension and 1.17(e) fee, be determined to be necessary in connection with this paper, Applicants respectfully request that any such additional fees be charged to Deposit Account No. 12-0615.